

(195⁴8) Department.

SERIES.

G.O. No. 1699

Dated 1 4 48

[Despatch Abstract.]

ACTS - THE MADRAS SHOPS AND ESTABLISHMENTS Act, 1947 - Drafts Rules -
Published -

GOVERNMENT OF MADRAS
Abstract

ACTS - THE MADRAS SHOPS AND ESTABLISHMENTS ACT, 1947 -
DRAFT RULES / PUBLISHED -

DEVELOPMENT DEPARTMENT.

G.O.Ms.No.1699.

Dated the 6th April, 1948.

Read the following:

Commissioner's Letter No.C.4.5975/46, dated the
8th March, 1947.

The Superintendent, Government Press is requested to publish the appended notifications in English and in the languages of the Province in the Fort St. George Gazette. The Senior Translator to Government is requested to supply the Superintendent, Government Press with the requisite translations of the Notification.

(By Order of His Excellency the Governor)

To
K.G. Menon,
SECRETARY TO GOVERNMENT.
The Superintendent, Government Press for publication.
The Senior Translator to Government(6 copies).
The Commissioner of Labour.
The Commissioner of Police.
All District Magistrates.
The Director of Public Health and the
Commissioner, Corporation of Madras thro' E & P.H.Deptt.
Copy to:-
Legal Department.
Local Administration Department.
Education and Public Health Department.
Finance Department.
The Accountant-General.
The Government of India, Ministry of Labour(4 copies).
All District Panchayat Officers through Inspector of
Municipal Councils and Local Boards.
All Commissioners of Municipalities thro' Chairmer

APPENDIX.
NOTIFICATION I.

The following draft of certain rules which it is proposed to make in exercise of the powers conferred by sub-section (1) of Section 49 of the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947) is hereby published for general information as required by sub-section (3) of the said section.

Notice is hereby given that the draft rules will be taken into consideration on or after the 25th May 1948, and any objection or suggestion which may be received from any person with respect thereto before the date aforesaid will be considered by the Government of Madras. Objections and suggestions should be addressed to the Secretary to the Government of Madras in Development Department through the Commissioner of Labour, Madras.

DRAFT RULES.

1. Short title. These rules may be called the Madras Shops and Establishments Rules, 1948.

2. Definitions. In these rules, unless there is anything repugnant in the subject or context:-

- (a) "The Act" means the Madras Shops and Establishments Act, 1947;
- (b) 'Form' means a form appended to these rules;
- (c) 'Government' means the Government of Madras;
- (d) 'Section' means a section of the Act;
- (e) 'Words and expressions used in the Act and not defined in these rules shall have the meanings assigned to

3. Inquiry by Government before passing orders fixing opening and closing hours of shops:

(1) The Government shall make the inquiry under sub-section (2) of Section 7 in the manner specified in sub-rules (2) to (4),

(2) Before passing an order under sub-section (1) of section (7) the Government shall give notice of their intention to pass such order. The notice shall be in Form A and shall, unless a copy of the Order proposed to be passed is annexed to it, specify the area and the shops or shops or class or classes of shops to which the order shall apply, the hours of opening or the hours of closing or both, which are proposed to be fixed and the days in respect of which such hours are so proposed to be fixed. The notice shall also state that objections and suggestions with respect to such orders, if any, may be sent to the Officer mentioned in the notice within one month from the date of publication of such notice in the Fort St. George Gazette.

(3) Copies of the notice shall be sent to such associations, trade unions or other organisations as the Government may deem fit. The notice shall be published in the Fort St. George Gazette.

(4) The Government shall consider all objections and suggestions received under sub-rule (2) before passing any order under sub-section (1) of Section 7.

4. Inquiry by Government before passing orders fixing opening and closing hours of establishments other than shops:

The provisions of rule 3 shall mutatis mutandis apply to an inquiry to be made by the Government under sub-section (2) of section 13.

5. Cleanliness: (1)(a). In every establishment all the inside walls of the rooms and all the ceilings of such rooms (whether such walls or ceiling be plastered or not) and all the passages and staircases shall be lime-washed or colour-washed at intervals of not more than twelve months dating from the time when they were last lime-washed or colour washed and shall be maintained in a clean state.

(b) All beams, rafters, doors, window frames and other wood-work with the exception of floors shall be either lime-washed or colour-washed at intervals of not more than twelve months dating from the time when they were last lime-washed or colour washed or shall be painted or varnished at intervals of not more than seven years dating from the time when they were last painted or varnished and shall be maintained in a clean state.

(c) This sub-rule shall not apply to the following

- (i) rooms used only for the storage of articles
- (ii) walls or ceilings or rooms which are made of galvanised iron, flat tiles, asbestos sheets, glazed bricks, glass slate, bamboo thatch, cement plaster or polished chunam;
- (iii) ceilings of rooms in which the lowest part is at least 20 feet from the floor
- (iv) any other establishment or part thereof in which lime-washing, colour-washing, painting or varnishing is, in the opinion of the Commissioner of Labour unnecessary to satisfy the requirements of section 20 in regard to cleanliness.

(2) Rubbish, filth or debris shall not be allowed to accumulate or to remain on any part of the establishment for more than 24 hours and shall be disposed of in the manner approved by the Inspector. All filth and other decomposing matter shall be kept in covered receptacles.

(3) All drains carrying waste or sullage water or sewage shall be regularly flushed at least twice daily and where possible, connected with some recognised drainage line.

(4) The establishment and the compound surrounding it shall be maintained in a strictly sanitary and clean condition. The floors shall be swept or otherwise cleaned at least once daily, and the ceilings shall be dusted at least once a month.

(5) The employer shall enforce the proper use of latrines and urinals and prevent pollution by excreta or urine of the surface of the ground in the vicinity of the latrine or urinal and in the compound of the establishment. The employer shall make suitable arrangements for the regular cleaning and conserving of the latrines and urinals to the satisfaction of the Inspector.

(6) The area around the place where drinking water is distributed to the workers shall be kept clean and properly drained.

6. Ventilation: In every room of an establishment ventilating openings shall be provided in the proportion of five square feet for each worker employed in such room and the opening shall be such as to admit of a continued supply of fresh air;

Provided that, subject to the control of the Commissioner of Labour, the Inspector may, for reasons to be recorded in writing, relax the conditions of this rule where, in his opinion, this may be done with due regard to the health of the workers employed in any room.

7. Precautions against fire: The employer of every establishment shall adopt such precautions against danger by fire to the life of persons employed therein as are considered adequate by the Inspector.

8. Appeals: The Commissioner of Labour shall be the appellate authority for the purpose of hearing appeals from orders passed by the Inspector under Chapter V of the Act and any such appeal shall be preferred by the employer on whom the order of the Inspector under that chapter has been served within thirty days from the date of the service of the order.

The Commissioner of Labour shall be the appellate authority for the purpose of hearing appeals under section 41(2) from orders passed by the employer and any such appeal shall be preferred by the person on whom the order of the employer under section 41(1) has been served within thirty days from the date of the service of the order.

10. Manner of calculating the ordinary rate of wages: For the purpose of the Explanation to section 31, ordinary rate of wages per hour shall mean one eighth of the amount of daily wages or $\frac{1}{20}$ th of the amount of monthly wages.

11. Fines: Prescribed authority: (1) (a). The Commissioner of Labour shall be the authority competent to approve, under sub-section (1) of section 35, acts and omissions in respect of which fines may be imposed and, under sub-section (8) of section 35, the purposes to which the fines realised shall be applied.

APPLICATION IN RESPECT OF FINES.

(b) Every employer requiring the power to impose fines in respect of any acts and omissions on the part of employed persons shall send to the Commissioner of Labour.

- (i) a list, in English, in duplicate, clearly defining such acts and omissions; and,
- (ii) in cases where the employer himself does not intend to be the sole person empowered to impose fines, a list in duplicate, showing those appointments in his establishment the incumbents of which may pass orders imposing fines and the class of establishment on which the incumbent of each such appointment may impose fines.

APPROVAL OF LIST OF ACTS AND OMISSIONS.

(c) The Commissioner of Labour may, on receipt of the list prescribed in sub-clause (i) of clause (b) after such inquiry as he considers necessary, pass orders either:

- (i) Disapproving the list, or
- (ii) approving the list either in its original form or as amended by him in which case such list shall be considered to be an approved list;

Provided that no order disapproving or amending any list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order.

POSTING OF LIST.

(d) The employer shall display at or near the main entrance of the establishment a copy in English, together with a correct translation thereof, in the language of the majority of the persons employed thereof of the list approved under clause (c).

PERSONS AUTHORISED TO IMPOSE FINES.

(e) No fine shall be imposed by any person other than an employer or a person holding an appointment named in a list submitted under clause (b).

PROCEDURE IN IMPOSING FINES AND DEDUCTIONS:

(2)(a) Any person desiring to impose a fine on a person employed or to make a deduction from his wages for damage or loss shall explain personally to the said person the act or omission, or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and shall hear his explanation. The charge in respect of which it is proposed to impose the fine or deduction and the explanation of the person concerned shall be reduced to writing, the signature of such person being obtained to the latter.

INFORMATION TO EMPLOYER.

(b) Every person other than the employer imposing a fine or directing the making of a deduction for damage or loss shall at once inform the employer of all particulars, so that the register prescribed in sub-rule (3) or sub-rule (4) may be duly completed.

REGISTER OF FINES.

(3) (a) The employer of any establishment in respect of which he has obtained approval under sub-section (1) of section 35 to a list of acts and omissions in respect of which fines may be imposed, shall maintain a Register of Fines in Form B.

contd:-

(b) At the beginning of the Register of Fines, the approved purpose or purposes on which the fines realised are to be expended shall be entered and serially numbered.

(c) When any disbursements are made from the fines realised a deduct entry of the amount so expended shall be made in the Register of Fines. The vouchers or receipts in respect of the amounts so expended shall be serially numbered and kept separately the serial number of each voucher or receipt and the amount to which it relates being noted in the remarks column of the Register. If more than one purpose has been approved, the entry of the disbursement shall also indicate the purpose for which it is made.

REGISTER OF DEDUCTIONS FOR DAMAGE OR LOSS.

(4) In every establishment in which deductions for damage or loss are made, the employer shall maintain the Register required by sub-section (2) of section 37 in Form C.

REGISTER OF WAGES.

(5) A Register of Wages shall be maintained in every establishment and may be kept in such form as the employer finds convenient but shall include the following particulars.

- (1) The gross wages earned by each person employed for each wage-period;
- (ii) the total of all deductions made from those wages;
- (iii) the wages actually paid to each wage period.

12. DEDUCTIONS FOR BREACH OF CONTRACT:

(1) No deduction for breach of contract shall be made from the wages of an employed person who is under the age of fifteen years;

(2) No deduction for breach of contract shall be made from the wages of any employed person unless---

there is provision in writing forming part of the terms of the contract of employment requiring the employee to give notice of the termination of such employment and the period of notice does not exceed either

- (i) fifteen days or the wage period, whichever is less;

or

- (ii) the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in English and in the languages of the majority of the employed persons at or near the main entrance of the establishment and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made; and,

(c) a notice has been displayed at or near the main entrance of the establishment giving the names of the persons from whose wages the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted;

Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections of the establishment, it shall be sufficient, in lieu of giving the names of the persons in such departments or sections, to specify the departments or sections affected.

(3) No deduction for breach of contract shall exceed the wages of the person employed, for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under clause (c) of sub-rule (2), no deduction for breach of contract shall be made from the wage of any person who has complied with those conditions.

13. Advances:

(1) An advance of wages not already earned shall not, without the previous permission of the Inspector having jurisdiction exceed an amount equivalent to the wages earned by the employed person during the preceding two calendar months, or if he has not been employed for that period twice the wages he is likely to earn during the subsequent calendar month.

(2) Any advance may be recovered in instalments by deductions from wages, spread over not more than twelve months:

~~(3)-~~ Provided that this sub-rule shall not apply to the case of an advance made before the commencement of the Act and particulars relating to which are communicated before ~~before~~ the 31st March 1948, to the Inspector having jurisdiction over the establishment.

(3) No instalment by which an advance is repaid shall exceed one-third, or where the wages for any wage-period are not more than twenty rupees, one-fourth, of the wages for any wage-period in respect of which the deduction is made.

(4) The amounts of all advances, whether made before the commencement of the Act or sanctioned after such commencement, and all repayments of such advances, shall be entered in a register in Form D.

14. Provision 6 regarding Inspectors: No person shall be appointed to be an Inspector under the Act, or, having been so appointed shall continue to hold office, who is or becomes directly or indirectly interested in any establishment to which the Act applies, in the area for which he is to be or has been appointed.

15. Manner of examination of premises etc. by the Inspectors:-

(1) An Inspector making an examination under section 43 shall make such examination of the premises and of the prescribed registers, records and notices as may appear to him necessary for the purpose of satisfying himself that the provisions of the Act, of these rules and any orders passed by the Government under the Act are being properly observed. In particular, he shall satisfy himself--

- (i) that the registers, records and notices required to be maintained or exhibited under the Act or these rules are properly maintained or exhibited;
- (ii) that the intervals of rest and the holidays required to be granted under the Act are granted and that the limits of hours of work and spread over laid down under Act are not exceeded;
- (iii) that the provisions of the Act relating to the payment for overtime work are duly observed;
- (iv) that no child is allowed to work in any establishment to which the Act applies; and
- (v) that the provisions of the Act and any order issued by the Government regarding the opening or closing hours are duly observed.

(2) For carrying out such examination, the Inspector may (contd:-

Inspector may interrogate such persons on the premises, as he may deem necessary, provided that no such person shall be required under this rule, to answer any question the answer to which might tend to criminate him.

16. Maintenance of registers and records and display of notice

(1) Every employer shall maintain a register of employment in Form E provided that where the opening and closing hours are ordinarily uniform the employer may maintain such register in Form 'F'.

(2) Notwithstanding anything contained in sub-rule (1), an employer may, instead of maintaining a register as provided in that sub-rule, exhibit in his establishment a notice specifying the daily hours of work and the intervals for rest and meal to be allowed to the persons employed. The notice shall be in Form G and shall be exhibited not later than the closing hour on the Saturday immediately preceding the first week in which the hours of work shall be as specified in such notice. It shall continue to be exhibited so long as the hours of work specified in it are observed.

(3) Where an employer has exhibited the notice referred to in sub-rule (2), he shall keep a record of hours of work in Form H.

(4) Every employer shall exhibit in his establishment a notice in Form J specifying the day or days of the week on which the persons employed by him shall be given a holiday. The notice shall be exhibited before the persons to whom it relates cease work on the Saturday immediately preceding the first week during which it is to have effect.

(5) Every employer shall exhibit in his establishment a notice containing such extracts of the Act and these rules in English and in the language of the majority of the persons employed by him as the Government may direct.

(6) Any notice required to be exhibited under these rules shall be exhibited in such manner that it can be readily seen and read by any person whom it affects and shall be renewed whenever it becomes defaced or otherwise ceases to be clearly legible.

(7) In any register or record which an employer is required to maintain under these rules, the entries relating to any day shall be made on such day.

(8) The registers, records and notices relating to any calendar year shall be preserved till the end of the next calendar year.

(9) If on an application made by an employer in writing, the Commissioner of Labour is satisfied that any muster roll, register or record maintained by such employer gives in respect of all or any of the persons employed in his establishment the particulars required to be shown in any register, record or notice prescribed under this rule, the Commissioner of Labour may, by order in writing, direct that such muster roll, register or record shall to the corresponding extent be maintained in place of such register record or notice as the case may be.

(10) Save as otherwise provided in sub-rule (5), all registers, records, muster rolls, and notices required to be maintained, exhibited or given under this rule shall be either in English or in the language of the majority of the persons employed in the establishment.

(11) Every employer shall maintain a visit book in which an Inspector visiting the establishment may record his remarks regarding any defects that may come to light at the time of his inspection and shall produce it whenever required to do so by any Inspector having jurisdiction.

17. Ascertainment of age by the Inspectors:

(1) An Inspector may require an employer to produce a certificate of age from a registered medical practitioner in respect of any person employed by him.

(2) Such certificate shall be in Form F

18. Penalty:-- Any person who contravenes any of the provisions of these rules shall on conviction be punishable with fine which may extend to fifty rupees.

K.G. Menon,)
Secretary to Government.

FORM A.
(See rules 3 and 4)

Notice is hereby given that the Provincial Government propose to pass an order under sub-section (1) of section 7/13 of the Madras Shops and Establishments Act, 1947, that with effect from.....no shop.....
Commercial or ~~xxx~~ other establishment situated in shall be opened on any day ~~earlier~~ ~~earlier~~ than.....and/or shall be closed on any day later than.....

Any person wishing to make any objection or suggestion with respect to the above order shall send in writing to the Commissioner of Labour before the.....day of.....
-----194

Dated this.....day of.....194 .

Secretary to Government.
Development Department.

Form B.
(See rule 11(3)(a))
Register of fines

-----establishment-----						
1. Name.	2. Father's name or husband's name.	3. Act or omission for which fine imposed.	4. Whether workman showed cause against fine or not and if so, date on which cause was shown.	5. Total wages for the period in which fine imposed.	6. Amount of, and date on which, fine imposed.	7. Date on which fine realized.
8. R	9. E	10. M	11. A	12. R	13. K	14. S.
2.	3.	4.	5.	6.	7.	8.
9.						

FORM C.

(See rule 11(4))

Register of deductions for damage or loss caused to the employer by the neglect or default of employed persons.

..... establishment.....

S. No.	Name. Father's name or husband's name.	Damage or loss caused.	Whether worker showed cause against deduction or not, and if so, date on which cause was	Total wages for the wage period in which fine-imposed. Amount of and date on which deduction imposed.	Total Number of instalments if any.	Date on which total amount realised.	Remarks
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FORM D.

(See rule 13(4))

Register of Advances made to employed persons.

..... Establishment.....

S. No.	Name. Father's name or husband's name.	Amount of and date on which advance made.	Purpose(2) for which advance made.	No. of instalments by which advance to be repaid.	Post-ponements granted.	Date on which total amount repaid.	Remarks
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FORM E.

(See Rule 16(1))

Register of employment.

Month.....year.....

Name of person employed.	Whether young person or not.	Day of month	Time at which employment commenced.	Time at which employment terminated.	Rest interval.	Total hours worked during the month.	Days on which overtime work is done and extent of such overtime on each day.	Extent of overtime worked during the month.
1.	2.	3.	4.	5.	6.	7.	8.	9.

Note:- The mark H shall be made in the column relating to any day on which a holiday is given in accordance with the notice referred to in rule 16(4).

Form F.

(See rule 16(1))

Register of employment.

Where opening and closing hours are ordinarily uniform.

Description of Department
(if applicable) ,
Month.

Note:- Entries relating to any day must be made on that day.

shall be given a holiday on the day named below in the week following the date of this notice and until further notice.

Signature of Employer.

Date.

Form of certificate.

Description of marks are:

Medical Practitioner.

)(True Copy)

Under section 34(2)(e) and section 38 of the Madras Shops and Establishments Act, 1947 (Madras Act XXXVI of 1947) His Excellency the Governor hereby

(1) ~~deduction~~ authorizes deductions to be made from the wages of a
person p.t.o.

of a person employed for the following amenities and services supplied by his employer:-

- (i) deductions for the 'supply of foodstuffs' and other necessities of life;
- (ii) deductions for subscriptions to clubs, associations, etc., formed by employees and recognised by the employer;
- (iii) deductions for tickets for performances of dramatic societies formed by employees and recognized by the employer;
- (iv) deductions for work people's savings fund;
- (v) deductions for subscriptions to welfare excursions;
- (vi) deductions for contributions to thrift societies;
- (vii) deductions for the supply of light or water in the residence of the employees; and
- (viii) deductions for the supply of clothing and blankets; and

(2) directs that the making of any of the deductions aforesaid shall be subject to the condition that each individual person employed to whom the amenity or service is supplied, authorises in writing the making of such deduction, and that in case of doubt or dispute as to whether a deduction in any particular case is or is not admissible, the question shall be referred to the Commissioner of Labour for decision.

K.G. Menon,
Secretary to Government.

/True Copy/

R. Thiruvengadam
Office Assistant,
Madras Record Office.

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